

For discussion
on 23 June 2008

LegCo Panel on Administration of Justice and Legal Services

Development of mediation services

The purpose of this paper is to set out recent developments on the topic of mediation.

The mediation conference

2. At the meeting of the LegCo Panel on Administration of Justice and Legal Services on 22 October 2007, Members were briefed that the Administration would organise a mediation conference in November 2007. We are pleased to inform Members that a two-day conference named “Mediation in Hong Kong: the Way Forward” was successfully held on 30 November and 1 December 2007. This conference was jointly organised by the Department of Justice, the Judiciary and other stakeholders in the field.¹ During this conference, mediation experts from other jurisdictions including Australia and Canada and local mediation experts from a wide range of sectors shared with participants their experiences and insights. The Chief Justice, the Secretary for Justice and the Secretary for Home Affairs also addressed the conference. Day 1 of the conference was dedicated to the discussions of the initiatives taken by the public sector and private sector in the promotion and facilitation of mediation, with overseas speakers sharing their experience that they had gained over the years in their respective jurisdictions. On Day 2, the theme of the conference was community mediation with reviews and discussions of the use of mediation to resolve building management disputes, labour disputes and family disputes in Hong Kong.

¹ The other joint organisers of the conference are the University of Hong Kong, the Hong Kong International Arbitration Centre, the Hong Kong Mediation Council, the Hong Kong Mediation Centre, the Bar Association and the Law Society.

The Working Group on Mediation

3. Following the Chief Executive's announcement to develop mediation services in Hong Kong in the 2007 Policy Address, a cross-sector Working Group on Mediation ("Working Group") has been established by the Administration to review the current development of mediation in Hong Kong and to make recommendations on how mediation can be more effectively and extensively used to resolve disputes. The terms of reference of the Working Group are set out at **Annex A**.

4. The Working Group is chaired by the Secretary for Justice, and comprises representatives from the Department of Justice, the Judiciary, the Legal Aid Department, the Bar Association, the Law Society, the three local law schools, the relevant mediation bodies and two independent members. A membership list of the Working Group is at **Annex B**.

5. The first meeting of the Working Group was held in February 2008. It was decided that three Sub-groups would be formed to assist the work of the Working Group.

Sub-groups under the Working Group on Mediation

6. Following the decision of the Working Group, three Sub-groups were formed in April 2008. They are the Public Education and Publicity Sub-group, the Accreditation and Training Sub-group and the Regulatory Framework Sub-group, respectively led by Mr Fred Kan of the Hong Kong International Arbitration Centre, Mr Lester Huang, President of the Law Society, and Mr Rimsky Yuen SC, Chairman of the Bar Association. These Sub-groups will consider and make findings on specific issues assigned to them by the Working Group.

Department of Justice

June 2008

Working Group on Mediation

Terms of reference

The terms of reference of the Working Group are:

- (a) to review the current development of mediation and provision of mediation services in Hong Kong;
- (b) to make recommendations, taking into account overseas and Hong Kong experience in mediation, on ways to :
 - (i) facilitate and encourage a wider use of mediation in Hong Kong and, where appropriate, to introduce pilot schemes for selected types of disputes or cases, with or without elements of compulsion;
 - (ii) ensure the quality and standard of mediators;
- (c) to conduct, or to engage experts to conduct, such studies as reasonably incidental to the matters mentioned in (a) and (b) above; and
- (d) to co-ordinate with the Chief Justice's Working Party on Mediation for the purpose of carrying out the above work.

Working Group on Mediation
Membership List

Mr Wong Yan Lung, SC
Secretary for Justice (Chairman)

Mr Michael Beckett
School of Law
The City University of Hong Kong

Mr Chan Bing Woon, SBS, JP
Hong Kong Mediation Council

Ms Teresa Cheng, SC
Hong Kong International Arbitration Centre

Professor Anthony BL Cheung, BBS, JP

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Professor Anne Scully-Hill
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Ms Sylvia Siu, JP
Hong Kong Mediation Centre

Mrs Cecilia Wong
The Law Society of Hong Kong

Ms Anna Wu, JP

Mr Rimsky Yuen, SC

Chairman

The Hong Kong Bar Association

The Hon Mr Justice Lam

Judge of the Court of First Instance of the High Court

Judiciary

Mr Thomas Edward Kwong

Deputy Director of Legal Aid (Acting)

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Mr Ian Wingfield, GBS, JP

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Mr Benedict Lai, JP

Law Officer (Civil Law)

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